

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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**DAVONTAE SANFORD,**

Plaintiff,

vs.

**MICHAEL RUSSELL and JAMES TOLBERT,**  
in their individual capacities, jointly and severally,

Defendants.

Case No. 17-cv-13062  
Hon. David M. Lawson  
Magistrate Judge R. Whalen

<p><b><u>DEFENDANTS' MOTION TO PRECLUDE PLAINTIFF FROM REFERRING TO HIS MICHIGAN COURT OF CLAIMS SETTLEMENT</u></b></p>
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**DEFENDANTS' MOTION TO PRECLUDE PLAINTIFF FROM REFERRING TO HIS  
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Defendants, **MICHAEL RUSSELL** and **JAMES TOLBERT**, by and through their undersigned counsel, and in support of their motion rely upon the attached brief. Defendants sought concurrence with Plaintiff during a phone conference and via email. Plaintiff denied concurrence.

Respectfully submitted,

/s/ T. Joseph Seward (P35095)

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Date: February 20, 2019

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<p><b><u>BRIEF IN SUPPORT OF DEFENDANTS'</u></b> <b><u>MOTION TO PRECLUDE PLAINTIFF</u></b> <b><u>FROM REFERRING TO HIS MICHIGAN</u></b> <b><u>COURT OF CLAIMS SETTLEMENT</u></b></p>
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**BRIEF IN SUPPORT OF DEFENDANTS' MOTION TO PRECLUDE PLAINTIFF FROM  
REFERRING TO HIS MICHIGAN COURT OF CLAIMS SETTLEMENT**

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**ISSUE PRESENTED**

- I. Whether the Court should preclude Sanford from offering any evidence regarding his Michigan Court of Claims Settlement?

Defendants state “Yes”

Sanford states “No”

## **INTRODUCTION**

Sanford sued the State of Michigan under the Wrongful Imprisonment Compensation Act, Mich. Comp. Laws § 691.1751 et seq. The State of Michigan settled that claim. Defendants expect that Sanford will try to offer that settlement into evidence in an effort to try to convince the jury that he had no involvement quadruple homicide in issue. This Court should exclude that settlement from evidence because the Act specifically states that an award under it is inadmissible in civil litigation. The settlement is not relevant either, and would cause jury confusion, would mislead the jury, and evidence of the settlement would waste the jury's and the Court's time.

## **STATEMENT OF FACTS**

Sanford brings this lawsuit, claiming that he was wrongful convicted for a quadruple homicide that occurred on Runyon Street on the Northeast side of Detroit. (Dk. 1 – Complaint). He was arrested on September 18, 2007 and pled guilty to four counts of second degree murder and a count of felony firearms. (Ex. 1 - Plea Deal). Sanford moved to withdraw his plea on the basis that he was innocent, but that request was denied by the criminal court due to significant evidence supporting the conclusion that Sanford was guilty of the murders. (Ex. 2 - Supp. Mot. to Withdraw Plea; Ex. 3 - 2012 Opinion and Order Denying Motion to Withdraw Plea). Sanford moved for relief from judgment in 2015, which the prosecutors eventually stipulated to. (Ex. 4 - Motion for Relief from Judgment; Ex. 5 - Stipulation). The Criminal Court agreed to dismiss

Sanford's case *without prejudice* and wrote an opinion pointing to evidence that demonstrated that Sanford was guilty of the murders. (Ex. 6 - 2016 Opinion).

Sanford was released from prison on June 8, 2016. (Dk. 1 – Complaint, ¶ 20). He filed suit against the State of Michigan on July 26, 2017, under Michigan Wrongful Imprisonment Compensation Act, Mich. Comp. Laws § 691.1751 et seq. The State of Michigan settled that case for \$408,356.16 on December 21, 2017. (Ex. 7 - Court of Claims Judgment).

### **LAW & ARGUMENT**

Sanford will try to introduce his Court of Claims award as evidence that he is innocent of the quadruple homicides in question. However, “[a]n award of compensation under [the Wrongful Imprisonment Compensation Act] is not a finding of wrongdoing against anyone. An award of compensation under [the Wrongful Imprisonment Compensation Act] is not admissible in evidence in a civil action that is related to the investigation, prosecution, or conviction that gave rise to the wrongful conviction or imprisonment.” Mich. Comp. Laws § 691.1755(7). Therefore, Sanford may not produce any evidence of his Court of Claims settlement in this case.

Furthermore, the settlement and associated proceedings are irrelevant under Rule 401 and more prejudicial than probative under Rule 403 because it is not a prior adjudication of innocence. In a Wrongful Imprisonment Compensation Act case, the Plaintiff needs to prove the following by clear and convincing evidence: new evidence that demonstrates that the plaintiff did not perpetrate the crime and was not an

accomplice or accessory to the acts that were the basis of the conviction. Mich. Comp. Laws § 691.1755. Indeed, the proofs necessary for an award under that statute are different than the proofs needed in the criminal court, they are different standards. *Watkins v. Healy*, No. 17-CV-13940, 2018 W.L. 1471479, at \*3 (E.D. Mich., March 26, 2018).

### **CONCLUSION**

The Court should exclude any evidence that Sanford received a settlement from the State of Michigan under the Wrongful Imprisonment Compensation Act.

Respectfully submitted,

/s/ T. Joseph Seward (P35095)

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Date: February 20, 2019

### **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing and this Certificate of Service with the Clerk of the Court, using the Court's E-filing system that will send notification to all counsel of record, on **February 20, 2019**.

/s/ Mallorie M. Blaylock

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